

FIRST REGULAR SESSION

HOUSE BILL NO. 301

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

1140L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 632.498, RSMo, and to enact in lieu thereof one new section relating to civil commitment of sexually violent predators.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 632.498, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 632.498, to read as follows:

632.498. 1. Each person committed pursuant to sections 632.480 to 632.513 shall have a current examination of the person's mental condition made once every year by the director of the department of mental health or designee. The yearly report shall be provided to the court that committed the person pursuant to sections 632.480 to 632.513. The court shall conduct an annual review of the status of the committed person. The court shall not conduct an annual review of a person's status if he or she has been conditionally released pursuant to section 632.505.

2. Nothing contained in sections 632.480 to 632.513 shall prohibit the person from otherwise petitioning the court for release. The director of the department of mental health shall provide the committed person who has not been conditionally released with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

3. If the committed person petitions the court for conditional release over the director's objection, the petition shall be served upon the court that committed the person, **the prosecutor of the jurisdiction into which the committed person is to be released**, the director of the department of mental health, the head of the facility housing the person, and the attorney general.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 4. The committed person shall have a right to have an attorney represent the person at
19 the hearing but the person is not entitled to be present at the hearing. If the court at the hearing
20 determines by a preponderance of the evidence that the person no longer suffers from a mental
21 abnormality that makes the person likely to engage in acts of sexual violence if released, then the
22 court shall set a trial on the issue.

23 5. The trial shall be governed by the following provisions:

24 (1) The committed person shall be entitled to be present and entitled to the benefit of all
25 constitutional protections that were afforded the person at the initial commitment proceeding;

26 (2) The attorney general shall represent the state and shall have a right to a jury trial and
27 to have the committed person evaluated by a psychiatrist or psychologist not employed by the
28 department of mental health or the department of corrections. In addition, the person may be
29 examined by a consenting psychiatrist or psychologist of the person's choice at the person's own
30 expense;

31 (3) The burden of proof at the trial shall be upon the state to prove by clear and
32 convincing evidence that the committed person's mental abnormality remains such that the
33 person is not safe to be at large and if released is likely to engage in acts of sexual violence. If
34 such determination is made by a jury, the verdict must be unanimous;

35 (4) If the court or jury finds that the person's mental abnormality remains such that the
36 person is not safe to be at large and if released is likely to engage in acts of sexual violence, the
37 person shall remain in the custody of the department of mental health in a secure facility
38 designated by the director of the department of mental health. If the court or jury finds that the
39 person's mental abnormality has so changed that the person is not likely to commit acts of sexual
40 violence if released, the person shall be conditionally released as provided in section 632.505.

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